

Intel Non-Volatile Memory Solutions Group (NSG) Firmware License Agreement

IMPORTANT - READ BEFORE COPYING, INSTALLING OR USING.

Do not use or load this firmware or any associated materials (collectively, the "Firmware") until You have carefully read the following terms and conditions. By loading or using the Firmware, You agree to the terms and conditions of this Intel Non-Volatile Memory Solutions Group (NSG) Firmware License Agreement ("Agreement"). If You do not agree to comply with the terms and conditions, do not install or use the Firmware.

1 DEFINITIONS.

"Firmware" means the firmware, in object code form only, as identified Exhibit A, and any new version of the specified firmware that Intel may provide to You under this Agreement, if any.

"Intel Solid-State Drive (Intel SSD)" means the Intel solid-state component product(s) explicitly defined in Exhibit A hereto.

2 LICENSE. The Firmware is licensed for use only in conjunction with the Intel SSD identified in Exhibit A. Use of the Firmware in conjunction with any Intel SSD other than the one(s) identified in Exhibit A, or use of the Firmware with any non-Intel SSD or any other product is expressly not licensed hereunder. Subject to the terms of this Agreement, Intel grants to You a nonexclusive, nontransferable, worldwide, fully paid-up license under Intel's copyrights in the Intel SSD to:

- a)** Use and copy the Firmware internally solely for Your own development and maintenance purposes in support of Your products that contain the Intel SSD; and
- b)** Copy any end-user documentation which may accompany the Firmware.

3 RESTRICTIONS. The license grant set forth in Section 2 above is contingent upon Your strict compliance with the terms and conditions of this Agreement.

- a)** You will not assign, sublicense, lease, or in any other way transfer or disclose Firmware to any third party;
- b)** You will not modify the Firmware in any manner, and You agree to prevent unauthorized copying of the Firmware by any party;
- c)** You will make reasonable efforts to discontinue development using the Firmware, and, upon Intel's release of an update, upgrade or new version of the Firmware, You will make reasonable efforts to include such update, upgrade or new version in Your products that contain the Intel SSD;
- d)** Your use of the Firmware is also subject to the following limitations. You:
 - i)** will ensure that Your employees are expressly prohibited from activities, including without limitation, decompiling, disassembly and reverse engineering of the Firmware, and
 - ii)** will indemnify, hold harmless, and defend Intel and its suppliers from and against any claims or lawsuits, including attorney's fees that arise or result from Your use of the Firmware. Except as expressly stated in this Agreement, no license or right is granted to You directly or by implication, inducement, estoppels or otherwise. Intel grants You no license or right to any Intel patents, mask works, trade secrets, or other intellectual property, expressly or by implication, estoppel, statute or otherwise. Intel reserves all rights that it does not expressly grant to You in this Agreement.
- e)** Intel shall have the right to inspect or have an independent auditor inspect Your relevant records to verify compliance with the terms and conditions of this Agreement.

- 4 CONFIDENTIALITY.** You will not disclose the terms or existence of this Agreement or use Intel's name in any publications, advertisements, or other announcements without Intel's prior written consent. You do not have any rights to use any Intel trademarks or logos.
- 5 OWNERSHIP OF FIRMWARE AND COPYRIGHTS.** Title to all copies and all versions of the Firmware remains with Intel or its suppliers. The Firmware is copyrighted and protected by the laws of the United States and other countries, and international treaty provisions. You may not remove any copyright notices from the Firmware. Intel may make changes to the Firmware, or to materials referenced therein, at any time and without notice, but is not obligated to support or update the Firmware. Except as otherwise expressly provided, Intel grants no express or implied right under Intel patents, copyrights, trademarks, or other intellectual property rights.
- 6 NO WARRANTY.** The Firmware and Documentation are provided "as is" with no warranties of any kind, whether written, oral, implied or statutory, including warranties of merchantability or fitness for a particular purpose, non-infringement or arising from course of dealing or usage in trade. Intel does not warrant or assume responsibility for the accuracy or completeness of any information, text, graphics, links or other materials contained within the FIRMWARE.
- 7 LIMITATION OF LIABILITY.** IN NO EVENT WILL INTEL OR ITS SUPPLIERS BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION OR LOST INFORMATION) ARISING OUT OF THE USE OF OR INABILITY TO USE THE FIRMWARE, EVEN IF INTEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The limitation of liability set forth in this Section is a fundamental basis of this Agreement; and You understand and agree that Intel would not have entered into this Agreement without the limitation of liability.
- 8 TERMINATION OF THIS AGREEMENT.** Intel may terminate this Agreement at any time if you violate its terms. Upon termination, You will immediately destroy the Firmware or return to Intel all copies of the Firmware whether in Your possession.
- 9 GENERAL PROVISIONS**
 - a) GOVERNING LAW; JURISDICTION.** The procedural and substantive laws of the State of Delaware, U.S.A., without regard to its conflicts of laws principles, will govern this Agreement. This Agreement is prepared and executed and will be interpreted in the English language only, and no translation of the Agreement into another language will have any effect. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods (1980) is specifically excluded from and will not apply to this Agreement. The state and federal courts located in the State of Delaware will have exclusive jurisdiction of all disputes and litigation arising out of or related to this Agreement including, without limitation, matters connected with its performance. Each Party irrevocably submits to the personal jurisdiction of those courts and irrevocably waives all objections to such venue.
 - b) EXPORT.** The Firmware, documentation and all related technical information or materials are subject to export controls and (are or may be) licensable under U.S. Government export regulations. You will not export, re-export, divert, transfer or disclose, directly or indirectly, the Firmware, documentation and any related technical information or materials without complying strictly with all legal requirements including, without limitation, obtaining the prior approval of the U.S. Department of Commerce and, if necessary, other agencies or departments of the U.S. Government. Please access Intel's website, <http://www.intel.com/content/www/us/en/legal/export-compliance.html>, for information regarding the export classification of the Firmware that may be necessary to assist Your compliance with this

provision. You will execute and deliver to Intel “Letters of Assurance” as may be required under applicable export regulations. You will indemnify Intel against any loss related to Your failure to conform to these requirements.

- c) **U.S. GOVERNMENT CONTRACT PROVISIONS.** This Agreement is for Your temporary license of the Firmware. No Government procurement regulation or contract clauses or provision will be considered a part of any transaction between the Parties under this Agreement unless its inclusion is required by statute, or mutually agreed upon in writing by the Parties in connection with a specific transaction. The technical data and computer Firmware covered by this license is a “Commercial Item,” as that term is defined by the FAR 2.101 (48 C.F.R. 2.101) and is “commercial computer software” and “commercial computer software documentation” as specified under FAR 12.212 (48 C.F.R. 12.212) or DFARS 227.7202 (48 C.F.R. 227.7202), as applicable. This commercial computer software and related documentation is provided to end users for use by and on behalf of the U.S. Government, with only those rights as are granted to all other end users under the terms and conditions in this Agreement. Use for or on behalf of the U.S. Government is permitted only if the party acquiring or using this Firmware is properly authorized by an appropriate U.S. Government official. This use by or for the U.S. Government clause is in lieu of, and supersedes, any other FAR, DFARS, or other provision that addresses Government rights in the computer Firmware or documentation covered by this license. All copyright licenses granted to the U.S. Government are coextensive with the technical data and computer software licenses granted in this Agreement. The U.S. Government will only have the right to reproduce, distribute, perform, display, and prepare derivative works as needed to implement those rights.
- d) **ENTIRE AGREEMENT.** This Agreement contains the complete and exclusive statement of the agreement between the Parties and supersedes all proposals, oral or written, and all other communications between the Parties relating to the subject matter of this Agreement. Only a written instrument duly executed by authorized representatives of Intel and You may modify this Agreement.

INTEL NON-VOLATILE MEMORY SOLUTIONS GROUP (NSG) FIRMWARE LICENSE AGREEMENT:

EXHIBIT “A”

In consideration of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which You acknowledge, and intending to be legally bound, You agree as follows:

1. **INTEL SOLID-STATE DRIVE PRODUCT(S).** The below identified Firmware is licensed for use only in conjunction with

Intel ® SSD DC S4510

2. **FIRMWARE VERSION(S).** The “Firmware” licensed under this Agreement means the Firmware, in object code form only, identified as

Version XC311102_XB4B1005_signed.bin

and any updates thereto provided by Intel hereunder.